

## SUBCHAPTER B—RULES OF PRACTICE

### Parts 1100–1129—Rules of General Applicability

### PART 1101—DEFINITIONS AND CONSTRUCTION

#### PART 1100—GENERAL PROVISIONS

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AUTHORITY: 49 U.S.C. 721.

SOURCE: 47 FR 49548, Nov. 1, 1982, unless otherwise noted.

#### § 1100.1 Scope of rules.

These rules govern practice and procedure before the Surface Transportation Board under title 49, subtitle IV of the United States Code (49 U.S.C. 10101 *et seq.*). This subchapter will be referred to as the “Rules of Practice”.

#### § 1100.2 Applicability.

The rules in parts 1100–1129, Rules of General Applicability, establish general rules applicable to all types of proceedings. Other rules in this subchapter establish special rules applicable to particular types of proceedings. When there is a conflict or inconsistency between a rule of general applicability and a special rule, the special rule will govern.

[47 FR 49548, Nov. 1, 1982, as amended at 50 FR 30275, July 25, 1985]

#### § 1100.3 Liberal construction.

The rules will be construed liberally to secure just, speedy and inexpensive determination of the issues presented.

#### § 1100.4 Information and inquiries.

Persons with questions concerning these rules should either send a written inquiry addressed to the Director, Office of Public Assistance, Governmental Affairs, and Compliance, Surface Transportation Board or should telephone the Office of Public Assistance, Governmental Affairs, and Compliance.

[74 FR 52905, Oct. 15, 2009]

Sec.

1101.1 Statutory definitions.

1101.2 Definitions applicable to this subchapter.

1101.3 Construction.

AUTHORITY: 49 U.S.C. 721.

SOURCE: 47 FR 49548, Nov. 1, 1982, unless otherwise noted.

#### § 1101.1 Statutory definitions.

The definitions contained in section 10102 of the Act (49 U.S.C. 10102) apply in this chapter.

#### § 1101.2 Definitions applicable to this subchapter.

(a) *Act or Interstate Commerce Act* means subtitle IV of title 49 of the United States Code (49 U.S.C. 10101 *et seq.*).

(b) *Board* means (1) the Surface Transportation Board and (2) any body or individual to which or to whom decision making authority is assigned by the Board or the Chairman of the Board, including the Chairman, another Board Member, employee board, an individual employee, an administrative law judge, or other hearing officer entitled to act in a particular proceeding. See 49 CFR part 1011, Board Organization; Delegations of Authority.

(c) *Decision* means any formal, published action of the Board, including orders and notices.

(d) *Party* means a complainant, defendant, applicant, respondent, protestant, intervener, or petitioner in any proceeding, or other persons permitted or directed by the Board to participate in a proceeding. It will not include persons merely signing certificates of support or witnesses at oral hearing or in modified procedure proceedings, unless they are otherwise a party to the proceeding. Persons on the docket service list merely for the purpose of receiving copies of Board releases are not considered parties to the proceeding.

(e) *Proceeding* includes:

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(1) An *informal complaint* filed under §§1130.1, or 1130.3 or a *formal complaint* alleging violation of any provision of the Act or of any regulation or requirement made pursuant to a power granted by such Act, including petitions on special dockets;

(2) An *application* for (i) the granting of any right, privilege, authority, or relief under or from any provision of the Act or of any regulation or requirement made pursuant to a power granted by such Act, or (ii) the consideration of any submission required by law to be made to the Board;

(3) An *investigation* instituted by the Board;

(4) A *rulemaking* proposal instituted by the Board; or

(5) A petition for exemption filed under 49 U.S.C. 10502 requesting the Board to exempt from application all or part of subtitle IV of title 49 of the United States Code any person, class of persons, transaction, or service related to a rail carrier.

[47 FR 49548, Nov. 1, 1982, as amended at 50 FR 30275, July 25, 1985; 64 FR 53267, Oct. 1, 1999; 69 FR 58365, Sept. 30, 2004]

### § 1101.3 Construction.

The rules of construction contained in chapter 1 of title 1 of the United States Code (1 U.S.C. 1 *et seq.*) apply in this chapter. Among other things, they provide that the singular includes the plural, and vice versa; that the masculine includes the feminine; that the word “person” includes corporations, associations, and the like; that “county” includes parish and similar subdivisions; and that “company” includes successors and assigns.

## PART 1102—COMMUNICATIONS

Sec.

1102.1 How addressed.

1102.2 Ex parte communications prohibited; penalties provided.

AUTHORITY: 49 U.S.C. 721.

### § 1102.1 How addressed.

All communications should be addressed to the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, DC 20423-0001 unless otherwise specifically directed by another Board

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regulation. All communications should designate the docket number and title, if any. The person communicating shall state his address, and the party he represents.

[74 FR 52905, Oct. 15, 2009]

### § 1102.2 Ex parte communications prohibited; penalties provided.

(a) *Definitions.* (1) “On-the-record proceeding” means any matter described in Sections 556-557 of the Administrative Procedure Act (5 U.S.C. 556-557) or any matter required by the Constitution, statute, Board rule, or by decision in the particular case, that is decided solely on the record made in a Board proceeding.

(2) “Person who intercedes in any proceeding” means any person, partnership, corporation, or association, private or public, outside of the Board which is neither a party nor party’s agent, that volunteers a communication that it has reason to know may advance or adversely affect the interest of a party or party’s agent in any proceeding before the Board.

(3) *Ex Parte* communication concerning the merits means an oral or written communication by or on the behalf of a party which is made without the knowledge or consent of any other party that could or is intended to influence anyone who participates or could reasonably be expected to participate in the decision.

(b) *Communications that are not prohibited.* (1) Any communication to which all the parties to the proceeding agree, or on which the Board formally rules, may be made on an *ex parte* basis;

(2) Any communication of facts or contention which has general significance for a regulated industry if the communicator cannot reasonably be expected to have known that the facts or contentions are material to a substantive issue in a pending on-the-record proceeding in which it is interested;

(3) Any communication by means of the news media that in the ordinary course of business of the publisher is intended to inform the general public, members of the organization involved, or subscribers to such publication with